

NATIONAL CO-OPERATIVE POLICY

Promoting Co-operatives for Socio-Economic Transformation



THE NATIONAL ASSEMBLY
PARTY LEADERS


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Ministry of Agriculture, Livestock, Fisheries, and Co-operatives

State Department For Co-operatives

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*Promoting Co-operatives for Socio-
Economic Transformation*

SEPTEMBER, 2019

PREFACE

The Constitution of Kenya (CoK,2010) bestows the National Government with the mandate of policy formulation. In view of this mandate, the State Department has formulated this National Co-operative Policy in recognition of the changing environment in which co-operatives are regulated and supervised. The policy brings in focus the role played by the county governments as envisaged in the Constitution of Kenya (CoK,2010) which recognises co-operative societies as a devolved function.

As a mass movement, the national government recognises the unique role that co-operatives continue to play in bringing about equitable growth and development. The national government shall therefore actively take up its role of capacity building the county governments to ensure uniform growth of the movement in the country.

The policy recognises co-operatives as private business organizations. In order to become responsible corporate entities, co-operatives are expected to promote good governance practices that ensure their sustainable growth and development. In this respect, the policy proposes a new structure that promotes integration and enhances self-regulation. The new structure stratifies the co-operative movement by establishing a federation and strengthening the apex organization. The two levels of government will register only economically viable co-operatives.

In developing this policy, the State Department for Co-operatives held consultations with stakeholders taking into

account the diversity of their perspectives and activities. It is the view of the national government that the implementation of the policy will require co-operation from stakeholders.



Ali Noor Ismail, CBS
**Principal Secretary, State Department for Co-
operatives**

FOREWORD

The Government of Kenya recognizes the co-operative movement as a critical player in pursuit of social and economic development. The policy is anchored on the theme, “*Promoting Co-operatives for Socio-Economic Transformation*”.

The policy identifies contemporary challenges which inhibit the growth of co-operatives and presents a paradigm shift intended to establish a more proactive engagement between the national and county governments, the co-operative movement and other stakeholders. It also seeks to rationalize the role of national and county governments in co-operative development in line with the CoK, 2010 and national development goals set out in Kenya Vision 2030. The government affirms its commitment to uphold the sanctity of the co-operative values and principles as a way of enabling the growth of co-operative enterprises while ensuring that the interests of the general membership are safeguarded.

The CoK, 2010 devolved co-operative function to the counties. Upon promulgation of the constitution, challenges have emerged in the management and supervision of co-operatives. The formulation of this policy is thus the first step towards establishing an appropriate and supportive legal and institutional framework to support the growth and development of co-operatives in the country. In adopting this policy, the

growth of the co-operative movement in the country will be based on uniform standards in the exploitation of the different economic opportunities available for co-operatives.

The policy provides interventions for co-operatives to be at the forefront in mobilizing savings, enhancing agricultural productivity and value addition. It also supports co-operative in participation of the provision of decent and affordable housing, fighting poverty and promoting inclusivity in wealth creation and empowerment. It provides a framework for mobilizing financial and technical assistance for co-operative development, encouraging Public Private Partnerships (PPPs) in value-addition, market linkages; and the promotion of co-operative education, training and research.

The policy recognizes co-operatives as vehicles for realization of Kenya Vision 2030. It identifies co-operatives as private organizations that provide public good. This places enormous responsibility on the leadership of the movement to embrace good governance practices that reflect the expectations of not only the national and county governments but also those of their members. The two levels of government shall work closely with the Co-operative Alliance of Kenya (CAK) among other stakeholders to promote self-regulation. In conclusion, it is expected that this policy will provide

direction on the way the co-operative sector is governed in order to achieve socio-economic development.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Hon. Peter Munya, MGH
Cabinet Secretary
**Ministry of Agriculture, Livestock, Fisheries and Co-
operatives**

ACKNOWLEDGEMENT

The development of this policy was a consultative process where stakeholders were involved in all stages with guidance of the State Department for Co-operatives. We acknowledge and thank all persons and organizations that participated in the preparation of this policy. In particular, we appreciate contributions from ministries, departments and agencies, the Council of Governors, Inter-Governmental Relations Technical Committee, Office of the Attorney General and Department of Justice, and Kenya Law Reform Commission.

We also acknowledge the contributions of Co-operative Alliance of Kenya, Kenya Institute of Public Policy Research and Analysis, National Co-operative Housing Union, Kenya Rural and Savings and Credit Co-operatives Societies Union, Kenya Union of Savings and Credit Co-operatives, Green Growth Africa and the International Co-operative Alliance-Africa.

We wish to register our gratitude to the National Co-operative Business Association - Co-operative League of the United States of America (NCBA- CLUSA) and USAID/ AHADI for their unreserved commitment in facilitating and supporting the policy development process. Lastly we acknowledge the staff from the State Department for Co-operatives and counties who worked tirelessly to ensure completion of this policy.

EXECUTIVE SUMMARY

The policy provides a framework for accelerating the growth of Kenya's co-operative sector in a dynamic and competitive global environment. It replaces Sessional Paper No. 6 of 1997 on "*Co-operatives in a Liberalized Economic Environment*". It highlights the historical background of the co-operative sector in Kenya and globally. The objective of this policy is to promote competitive and sustainable co-operatives for socio-economic development. Challenges facing the co-operative movement have been identified.

By the end of 2017, there were 22,344 registered co-operatives with an estimated membership of 14 million. These co-operatives are active in financial intermediation, agricultural produce marketing and processing as well as provision of decent and affordable shelter. co-operatives are envisaged to promote green investments especially in such sectors as transport, housing, wholesale and retail trade. The policy further analyses the co-operative movement status and flags out its achievements.

Cognisant of the devolved system of governance, the policy lays ground for the review of the legal and regulatory framework to facilitate the growth and development of co-operatives. It is acknowledged that co-operatives are private organisations which play an important role in public mobilisation to stimulate economic growth. Therefore, the role of the national and county governments remains facilitative in nature.

Co-operative values and principles that include honesty, openness, democratic control, autonomy, concern for community are appreciated. While retaining the four-tier system to support the growth of the movement, the policy replaces the tier previously known as national co-operative organisations (NACOs) with the federation as a way of enhancing sector specific self-regulation within the movement. The new structure empowers the apex body, CAK, to play its role of advocacy.

Proposals on measures that will enhance effectiveness of co-operative operations with a clear separation of the roles of management and boards are considered. This intervention also recognizes the importance of delegates vis-a-vis the rights of individual members and responds to the need to stratify the co-operative societies for ease of regulation and supervision. Further interventions to strengthen regulation and dispute resolution in co-operatives are proposed.

The co-operative movement has mobilised over 48% of national savings¹. In addition, World Bank estimates that co-operatives financed 90% of housing stock in Kenya in 2016². On this basis, the policy proposes to strengthen co-operatives in savings mobilisation and housing. It addresses the general credit management in producer co-operatives emphasizing on borrowers' education to reduce delinquency. Proposals are also provided in areas of emerging financial opportunities for co-operatives, which

¹ IMF, World Bank Economic Outlook 2014

² World Bank, 2017

include participation in National Payment System, agency banking and share trading.

The role of co-operatives in agricultural value chains cannot be over emphasised. Co-operatives support channelling farm inputs to improve production, provide market linkages for agricultural produce, facilitate post-harvest management of agricultural produce by providing transportation and improved storage technology. The policy further lays the ground and emphasis on co-operatives to adopt value addition to their raw produce.

Education and training are essential factors in the growth and development of the co-operative movement. Co-operative University of Kenya has been identified as a centre of excellence in co-operative education and training. In addition, the policy recognises other institutions of higher learning offering co-operative education and training. Challenges facing delivery of co-operative education, training and research identified include low capacity and inadequate standardised training materials amongst others.

Majority of co-operatives in Kenya are still using manual paper-based systems, therefore there is need to support them to automate their system in order to increase efficiency. The policy provides direction for the national and county governments to work closely with the co-operative movement to promote adoption of Information and Communications Technology (ICT) in co-operatives.

It is acknowledged that the youth, women and persons with disability and other marginalised groups are not fully integrated in co-operative activities. This may be due to attitude, lack of interest or existing ownership structures. It is proposed that special interest groups will be mainstreamed in co-operative activities.

Chapter three provides interventions for all the thematic areas covered in the situational analysis. Key among these is the complete review of the current laws to reflect the devolved system of governance. It also lays ground for total review of governance enforcement structures by reviewing the role of regulatory organs.

Chapter four sets out implementation roles of various institutions. This includes both state and non-state actors. Finally, the policy makes provision for a monitoring and evaluation framework as well as policy review.

ACRONYMS AND ABBREVIATIONS

ADR	-	Alternative Dispute Resolution
BPO	-	Business Process Out-sourcing
CAK	-	Co-operative Alliance of Kenya
CIC	-	Co-operative Insurance Company
CoG	-	Council of Governors
CoK 2010	-	Constitution of Kenya (2010)
ECCOS	-	Ethics Commission for Co-operative Societies
HIV/AIDS	-	Human Immunodeficiency Virus/ Acquired Immune Deficiency Syndrome
ICA	-	International Co-operative Alliance
ICT	-	Information and Communication Technology
KNBS	-	Kenya National Bureau of Statistics
KUSCCO	-	Kenya Union of Savings and Credit Co-operatives
Ltd	-	Limited
MDAs	-	Ministries, Departments and Agencies
M&E	-	Monitoring and Evaluation
NACHU	-	National Co-operative Housing Union
NACOs	-	National Co-operative Organizations
PPP	-	Public Private Partnerships

SACCOs	-	Savings and Credit Co-operatives
SASRA	-	SACCO Societies Regulatory Authority
UN	-	United Nations
USAID/ AHADI	-	United States Agency for International Development/Agile and Harmonized Assistance for Devolved Institutions
WOCCU	-	World Council of Credit Unions

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CHAPTER ONE: INTRODUCTION

1.1 Background

Co-operatives have played a significant role in socio-economic development of nations for centuries and are a reminder to the international community that it is possible to pursue both economic viability and social responsibility. It is against this background that the United Nations (UN) declared the year 2012 the International Year of Co-operatives.

The International Co-operative Alliance (ICA) Blue print (The 2020 Vision) anticipates co-operatives as a business model that will provide economic, social and environmental sustainability and be the fastest growing form of enterprise. Its five (5) pillars of participation, sustainability, identity, capital and legal framework drive this. The ICA Africa Co-operative Development Strategy 2017-2020 recognizes co-operatives as a critical vehicle towards poverty alleviation and development in Africa. As co-operatives in Africa strive to support human development, they face various challenges such as low human resource capacity, weak economic base, extensive financial dependency from external sources, lack of internal capacity and poor governance. The strategy recognizes the sector as having high potential for facilitating financial growth and can therefore be transformed to lead social and economic development in Africa. Co-operatives have the potential in facilitating green investments to support economic growth.

1.2 Co-operatives in Post-Independence Kenya

The objectives that guide Kenya's development agenda were first established in the Sessional Paper No. 10 of 1965 on "African Socialism and its Application to Planning in Kenya." This paper promoted "Africanisation" in all spheres of the economy through political equality, social justice, human dignity including freedom of conscience, freedom from want, diseases and exploitation, equal opportunities; and high and growing per capita incomes, equitably distributed.

One of the outcomes of the Sessional No. 10 of 1965 was the enactment of the Co-operative Societies Act No. 39 of 1966. This accelerated the formation of co-operatives that facilitated the transfer of land to indigenous s, marketing of agricultural produce, and formation of financial institutions to support the co-operative movement.

Session Paper No. 1 of 1970 was the first co-operative development policy, in which government sought to consolidate the gains made in the co-operative movement. The policy was reviewed in 1975 when the government specifically recognised the importance of co-operatives as vital organs for mobilizing material, human, and financial resources for national development. It reiterated the government's commitment to expanding co-operative activities in all spheres of social and economic development. A key milestone at this stage was the establishment of the Ministry of Co-operative Development.

The second co-operative policy was Sessional Paper No. 4 of 1987, whose theme was “*Renewed Growth through the Co-operative Movement*”. This policy reiterated the commitment of the government in enhancing the participation of s in the economy through co-operatives. The government recognized the private nature of co-operatives and adopted an advisory role.

Sessional Paper No. 6 of 1997 on “*Co-operatives in a Liberalised Economic Environment*” was the third co-operative policy. In this policy, the Government reviewed its involvement in the management of co-operatives and provided a legislative framework under which co-operatives could operate in a competitive economic environment. This led to the enactment of the Co-operative Societies Act No. 12 of 1997 that gave greater powers to the members of the co-operative movement. The Act was however amended in 2004, to restore some powers to the government to intervene in the management of co-operatives when necessary. In addition, the rapid growth of financial co-operatives offering front office services necessitated the enactment of the Sacco Societies Act of 2008 to regulate savings and credit co-operatives.

1.3 Co-operatives in the Devolved System of Governance

CoK, 2010 brought about fundamental changes in the management of public affairs. The CoK 2010 established two levels of government namely; the national and the 47 county governments. The functions assigned to the county governments under Fourth Schedule included co-operative

development and regulation that was unbundled by the Transition Authority through Legal Notice No. 137 of 9th August 2013. One of the objects of devolution is to promote social and economic development and provision of easily accessible services throughout Kenya (CoK, 2010 Article 174). In doing so all actors will be guided by the principles and as espoused in Article 10 of the Constitution.

1.4 Co-operative Identity

The ICA defines a co-operative as “an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly owned and democratically-controlled enterprise”.

Co-operative identity includes the co-operative principles and values. Co-operative policy and legal framework are guided by these values and principles, including most significantly, protecting and fostering the autonomy of co-operatives. As part of the international co-operative movement, all co-operatives in Kenya conduct their business in accordance with internationally shared co-operative values and principles.

1.5 Co-operative Principles

The principles are guidelines through which co-operatives regulations and practices are anchored. They are: open and voluntary membership, democratic member control, economic participation, and autonomous and independent. The other principles are education, training and

information, co-operation amongst co-operatives, and concern for the community.

1.6 Co-operative Values and Ethical Beliefs

The co-operative principles are based on the following co-operative values: self-help, self-responsibility, democracy, equality, equity and solidarity. Co-operative members also believe in the ethical values of honesty, openness, social responsibility and caring for others. All co-operatives operate within these principles and values and will be required to include a statement of conformity with the principles in their annual audited financial statements.

1.7 Justification for Policy Review

This policy has been necessitated by the change in the governance structure in the country as well socio-economic environment. The CoK, 2010 established two levels of governance: national and county governments. The Fourth Schedule of the CoK, 2010 assigns the management of co-operative societies to the county governments and capacity building and formulation of policies and standards to the national government. The policy development will need to be aligned to the national development priorities among them, the Kenya Vision 2030 blueprint.

The other important development strategies guiding the development of co-operative movement are Sustainable Development Goals (SDGs), Africa Union Agenda 2063, ICA Blueprint 'Vision 2020', International Co-operative Alliance (ICA), Africa Co-operative Development

Strategy 2017-2020, and World Council of Credit Unions (WOCCU) prudential guidelines and strategies.

The policy will provide a framework for favouring environment for realizing improved efficiency and profitability of co-operatives.

1.8 Objectives

The main objective of this policy is to provide a framework that promotes sustainable and competitive co-operative movement for socio-economic development in a devolved system of governance. The specific objectives of the policy are to:

- a) Accelerate the growth and development of the co-operative sector through legal and institutional reforms;
- b) Promote co-operative production, access to shared resources, value addition and marketing;
- c) Enhance financial deepening and investments through co-operatives;
- d) Establish an institutional framework for enhancement of co-operation, consultation and co-ordination of co-operatives management;
- e) Promote governance in co-operatives;
- f) Develop the capacity of co-operatives through training, education and research;
- g) Promote adoption of ICT in co-operatives; and

- h) Mainstream issues related to climate change, special interest groups and human rights in co-operatives.

1.9 Theme of the Policy

The theme of the policy is, "*Promoting Co-operatives for Socio-Economic Transformation*". This presents an opportunity for co-operatives to contribute towards the attainment of the objectives of Kenya Vision 2030. The creation of this theme is informed by the realisation that co-operatives have contributed to the social and economic development of the country.

CHAPTER TWO: SITUATION ANALYSIS

2.1 Introduction

This chapter discusses the current co-operative landscape and identifies the gaps that the policy intends to address. The analysis addresses the general perspective, policy, legal and regulatory framework and sectoral performance in the co-operative sector. Other areas analysed in this chapter include co-operative movement structure, co-operative governance, co-operative education, training and research, ICT and cross cutting issues.

2.2 General Perspective

Co-operatives participate in all spheres of socio-economic development. The ICA World Co-operative Monitor (2018) reported that out of the top 300 co-operatives and mutual, 35 % were in agriculture, 32% were operating in insurance, 19% in wholesale and retail, 8% in banking and finance, 2% in industry and utility, 2% in health, education and social care and other sectors 2%. The same report indicates that these societies had collective revenues of over USD 2 trillion.

Kenya ranks number seven in the world and number one in Africa in terms of co-operative development.³ By the year 2017, there were 22,344⁴ registered co-operative societies cutting across almost all sectors of the economy, both formal and informal. These co-operatives had

³ ICA Report 2015

⁴ National Co-operative Register 2017

mobilized savings to the tune of Ksh. 730 billion advanced over Ksh. 700 billion to their members as loans and advances and controlled assets worth approximately Ksh. 1 trillion⁵. It is estimated that 63% of Kenya's population participates directly or indirectly in co-operatives activities contributing about 31% of the total Gross Domestic Product (GDP). The benefits that have accrued to s through co-operative societies include employment and wealth creation. Other than being engaged in the traditional areas of agricultural production, processing and marketing, the strength of co-operatives can now be felt in finance, real estate, manufacturing and mining sectors.

The role of co-operatives in socio-economic development has been through financing of education, agriculture, housing, transport, health and commercial activities. In addition, co-operatives are critical in development of rural economies where smallholder agriculture is the mainstay of communities. Cash crop farming especially coffee, sisal, sugarcane, rice, macadamia, cashew nuts, cotton, and pyrethrum are largely carried out by smallholder farmers.

2.3 Policy, Legal and Regulatory Framework

The current legal and regulatory framework for the co-operative movement in Kenya is anchored on the following legislation, policy, rules and regulations: Co-operatives Societies Act Cap 490; The Co-operatives Societies Rules 2005; Sacco Societies Act 2008, Cap 490

⁵ Audited financial statements for all co-operatives, 2017

B; Sacco Societies Regulations 2010; and Sessional Paper No. 6 of 1997.

The Co-operative Societies Act provides for the registration, incorporation, governance and supervision of all co-operative societies. The Act provides for three-tier structure being the primary co-operatives, secondary and apex. The Sacco Societies Act, 2008 was enacted to deal with licensing, supervision and regulation of Savings and Credit Cooperative Societies (SACCOs) with unique business model of financial mediation through deposit mobilization and advancement of credit to their members. The Co-operatives Societies Rules 2008 and the SACCO Societies Regulations 2010 operationalize the above laws.

These legislations need to conform to the devolved system of governance as envisaged in the CoK, 2010. The CoK, 2010 establishes a devolved structure of government consisting of the national and county governments, which are distinct but inter-dependent conducting their mutual relations on the basis of co-operation and consultations. The Constitution further enshrines devolution of power as one of the national values and principles of governance.

2.4 Co-operative Institutional Framework

Co-operatives in Kenya are regulated by the State department for Co-operatives. This function is performed by the office of the Commissioner for Co-operative Development and the SACCO Societies Regulatory Authority (SASRA). Notwithstanding the provisions of the CoK, 2010, the current situation is that the

Commissioner is both the regulator and promoter of co-operatives. On the other hand, SASRA was responsible for regulating only deposit-taking SACCOs leaving other SACCOs exposed.

On the functions of each level of government, the Fourth Schedule thereto assigns specific functions to each level of government. In particular, the national government is assigned with policy formulation, capacity building, norms and standards development and technical assistance, while county governments implement. There is need to align co-operatives function to CoK, 2010.

2.5 Sectoral Co-operative Performance Review

2.5.1 Agricultural based Co-operatives

As at the end of 2017 there were 5055 agro-based marketing co-operatives in Kenya⁶. These co-operatives were mainly involved in coffee, dairy, pyrethrum, livestock, cereals and cotton production and marketing. They had a combined turnover of Ksh.14 billion and an asset base of Ksh. 481billion in 2017.

There have been a number of challenges in the performance of agro-based co-operatives in the country. Some of these challenges include delayed payment to farmers, poor marketing channels for agricultural produce and low level of value addition. The others are poor farm input supply systems, lack of credit facilities and general

⁶ Audited Financial Statements for Agricultural Co-operatives, 2017

lack of managerial capacity. This has led to stagnation in the growth and development of these co-operatives.

In addition, co-operative unions meant to support primary co-operatives have a registered dismal performance with some remaining dormant.

2.5.2 Financial and Investment Co-operatives

a) Savings and Credit Co-operatives

The primary objective of Savings and Credit Co-operatives (SACCOs) is to create a pool of funds from which members can obtain credit facilities on softer terms than is otherwise available in the open market. By 2017, there were 13,200⁷ SACCOs in the country out of which 176 were offering front office services. Collectively they had accumulated savings and deposits of over Ksh. 430 billion, Ksh. 441 billion in loans and Ksh. 601 billion in assets and had a membership of about 5 million persons⁸.

Despite this notable success, SACCOs are unable to accumulate savings and deposits fast enough in order to satisfy their members' need for credit. This gap is met by commercial banks and the emerging e-platforms. Co-operatives are thus moving away from developing a savings to a borrowing culture.

In order to pay high interest rates to their members, many SACCOs have resorted to introducing financial products that they are not adequately equipped to manage.

⁷ National Co-operative register, 2017

⁸ Audited Financial Statements for SACCOs, 2017

Furthermore, some SACCOs are burdening their members by charging interest on loans that are unsustainable. Co-operatives are associations of persons established with the purpose of providing services as opposed to high returns capital.

b) Diaspora Co-operatives

The Diaspora Policy launched in 2014 recognizes the need to mainstream the Diaspora into our national development process. The State Department for Co-operatives registered the first Diaspora based SACCO in 2012 for s based in the United States of America. In support of this policy however, the State Department for Co-operatives in collaboration and with the support of the Ministry of Foreign Affairs promoted and registered seventeen SACCOs as at the end of 2017 with the aim of mobilizing savings.

While the initial move was to mobilize the Diaspora to form SACCOs, it is emerging that the Diaspora needs are more than what can be facilitated by SACCOs. The government will review this position with a view of coming up with an appropriate framework to facilitate the Diaspora in consumption of development programmes by the Diaspora not limited to savings as is the current scenario.

c) Sharia Compliant Co-operatives

The government recognizes financial inclusion as an important pillar of social economic development in the country. In line with this, the State Department for Co-

operatives has been promoting Sharia compliant co-operatives as a means of increasing and promoting financial inclusion in Muslim communities. This program will be expanded to cover all regions of the country while encouraging conventional co-operatives to offer Sharia compliant products and services.

d) Investment Co-operatives

The government plans to increase investments in housing, healthcare, clean and renewable energy, infrastructure and manufacturing. The impact of such investments will be greatly multiplied if a greater number of s were mobilised to participate. The demand for such investments has seen s mobilised through unregulated pyramid schemes leading to huge losses on investments.

To address these challenges, the government shall promote co-operatives that will be engaged in mobilising savings for investments. These co-operatives will be referred to as savings and investment co-operatives (SICOs).

e) Co-operative Financing

The Fin Access Household Survey Report 2016 indicates that loans generated by co-operatives contributed 45.9% of all loans from financial institutions directed to land and housing. Co-operatives also contributed 36% of all loans directed towards education, 21.5% to agricultural activities and 17.1% towards business ventures. By the end of 2017, co-operatives had over Kshs. 700 billion as outstanding loans and advances extended to members. These loans are

mainly financed through share contributions, internal reserves and deposits raised from co-operative members.

While some co-operatives have used this model to great prosperity, others who are unable to internally raise adequate savings have not registered meaningful growth. To this end some co-operatives are laden with loans that they are unable to service. On the other hand, the funding from the government and donor community is increasingly becoming less as competing priorities emerge.

Even as financial institutions seek for collateral to secure loans borrowed by co-operative societies, the common practice has been for the same financial institutions to guarantee regular payment by way of hypothecation of the members produce for marketing co-operatives and the deduction schedule for SACCOs. This practice has resulted in distributing the burden of debt repayment to all members of the society irrespective of whether they are beneficiaries of the loan or not.

The Co-operative Bank of Kenya has been the dominant financial institution in the co-operative sector. With liberalization however, other financial institutions have moved into the sector to offer competition. SACCOs also have recorded growth and are also a substantial segment of the financial sector.

f) Co-operative Investments

Whenever members invest in co-operative societies they expect returns and appreciation of their investment. Co-operative societies' assets are acquired through direct

member contribution, borrowed funds or from accumulated reserves. Once acquired, such assets, which are domiciled in the society general account, are usually considered society investments and fail to recognise individual effort of the members. Quite often it overlooks the fact that loans acquired to finance these assets are offset through members' produce. It is therefore very common to see the share capital of a member in a coffee society being reflected as Ksh.20 in value when for over 30 years the same farmers' proceeds were used to acquire factories and other assets for the society.

This practice has not only tended to kill industry among the members in promoting society investments but it also goes against the co-operative value of equity among members. It has therefore discouraged members from investing in their co-operative societies since there appears to be no capital appreciation for their investments that would differentiate an old member from a new member. This scenario has created disharmony in many societies where new members use society assets acquired by the old members without any form of compensation to the old members. Therefore, there is need to establish a platform that can be used to determine the market price of co-operative societies shares.

g) Housing Co-operatives

The right to housing is acknowledged in many international instruments and in Article 43 of the CoK, 2010. Kenya had a housing backlog of two million units as at end of 2016. The annual housing demand is 300,000

units in rural areas and 214,000 units in urban areas⁹. Co-operatives play a critical role in the provision of affordable shelter and bridging the gap in housing finance market. The co-operative movement is expected to deliver 25% of the annual housing demand in the country.

There were 1,980 housing/investment co-operatives by the end of 2017 with an asset base of approximately Ksh.31billion¹⁰

There are many factors that constrain access to affordable and decent housing. These factors include limited access to long term funding such as mortgages, low household disposable income, poor saving culture by majority of s, and limited infrastructure development for new housing schemes.

2.5.3 Transport Co-operatives

Public service transport is primarily a private sector driven industry. It is an attractive avenue for small-scale investors looking for quick returns. However, it has faced operational challenges which required to be addressed. To streamline the operations of the sector, the government directed that operators would either be limited companies or co-operatives. For ease of management and operation, many small operators chose the co-operative model as opposed to the company model and registered SACCOs. The registration of these SACCO societies in the transport sector have not adequately achieved the required purpose

⁹ Kenya Housing Policy

¹⁰ Audited financial statements for housing co-operatives, 2017

of self-regulation. Therefore, there is need to transform them into effective transport co-operatives.

2.5.4 Consumer Co-operatives

Consumers' co-operatives are organized to facilitate acquisition of consumer goods and services on favourable terms to members. They undertake the production and processing of consumer goods, wholesaling and retailing of goods and services mainly for their members. Kenya had 192 registered consumer co-operatives by the end of 2017, majority of which are dormant. For example, Kenya Farmers Association which has since become dormant was most successful consumer co-operative in the country. Past efforts by co-operatives to run consumer retail shops have failed due to weak governance.

2.5.5 Industrial Co-operatives

Industrial co-operatives are manufacturing businesses owned and managed by people who work in it. These co-operatives are mainly focused on small and large-scale industries, cottages and *jua kali* artisans.

With large number of youth graduating from vocational and technical training institutions, there have never been adequate functional industrial co-operatives to support them in their start up activities. In addition, the existing industrial co-operatives have stagnated due to inactive membership, lack of promotion and capital inadequacy.

co-operative organizations that are key to the growth of the movement.

To facilitate growth within the movement, sector specific co-operatives shall be promoted at national level. They will be known as federations, thus differentiating them from unions at county level. The federations once established shall offer services to their affiliates in matters of advocacy, market research and promotion, and promote sector specific standards and regulations. These will include:

- a) Ensuring that all affiliates societies keep proper records and books of accounts;
- b) Provide a platform for the advancement of ICT and innovations for its affiliates;
- c) Provide education and training to affiliated societies;
- d) Establish and enforce a code of ethics for affiliates/subsidiaries;
- e) Affiliate with other local, regional and international bodies for the benefit of its affiliates;
- f) Develop and enforce such standards that shall be necessary for the advancement of the affiliates; and
- g) Engage in any other business to promote the interests of its affiliates as long as the business is not in competition with the affiliates.

The Co-operative Alliance of Kenya (CAK) shall remain the apex organization. Membership to the apex body shall be restricted to the co-operative federations. However secondary co-operatives that are not sector specific and cannot therefore affiliate to any federation, shall affiliate directly to CAK. The apex may admit any organization or society as an associate member without voting rights for the purposes of promoting the interest of co-operative movement in the country. The role of CAK will include:

- a) Advocacy, spokesperson of the movement, and promotion of the movement's interests;
- b) Promotion of co-operation, collaboration and linkages among co-operatives and stakeholders through networks at local, regional and international levels;
- c) Promotion of the development of the co-operative movement and advise the government at national and county levels on co-operative matters;
- d) Custodian and champion of the co-operative principles and values, and promotion of self-regulation within the movement; and
- e) Affiliation with regional and international co-operative organizations for the benefit of the movement.

It is worthwhile to emphasise that co-operatives are private organizations, jointly owned and democratically controlled enterprises. Therefore, the structure of the

themselves as co-operatives. For instance, non-co-operative credit institutions refer to themselves as SACCOs. Even though the current legislation forbids usage of the term “Co-operative” and “SACCO” by non-co-operative institutions, there is need to provide stiffer penalties for those who use the two terms illegally.

2.8 Co-operative Governance and Compliance

2.8.1 Co-operative Governance

Governance is the system of rules, practices and processes by which an organization is directed and controlled. It essentially involves balancing the interests of stakeholders such as members, board, management, customers, suppliers, financiers, government and the community. Since governance also provides the framework for attaining co-operative objectives, it encompasses practically every sphere of management, from action plans and internal controls to performance measurement and corporate disclosure.

Through various legal interventions the government has promoted good corporate governance practices in the co-operative movement. However, incidences of weak governance are still experienced in some co-operative organizations, which have led to misapplication and mismanagement of resources, and cases of collapse of co-operatives. The weak governance is characterised by ineffective leadership, micro-management of the societies by the boards, unethical business practices, and inadequate application of good financial management and lack of

effective member participation. Current efforts to address the weak governance in co-operative movement include the establishment of Ethics Commission for Co-operative Societies (ECCOS) and the Co-operative Tribunal.

ECCOS was established as an un-incorporated body in the State Department for Co-operatives through the Public Officers Ethics Act of 2003. Its mandate is to ensure governance structures that support enforcement are put in place. The Commission as currently constituted has not effectively discharged its mandate.

The Co-operative Tribunal was established to settle co-operative disputes under the Co-operative Societies Act. Following promulgation of the CoK, 2010, the Tribunal was transferred to the Judiciary. However, the operations of the Tribunal continue to be a circuit court with limited capacity. This position has hampered administration of justice to co-operative movement.

2.8.2 Co-operative Compliance

a) Non-Remittances

Non-remittance of co-operative members' deductions by employers and marketing agencies has been a major problem. The effect of non-remittance of deductions to the SACCOS is that members default and are not able to access credit facilities as per the objectives of the society. Further, the savings of the affected co-operative societies is reduced and the societies fail to mobilize further resources among members on account of the disincentive. The Commissioner is mandated under Section 35 of the

Through co-operatives, women are able to respond to both practical and strategic needs as they are provided with opportunities to access common production resources (such as credit, land, marketing facilities, infrastructure, tools, and technology), which increase their income. By forming themselves into co-operatives, women can also benefit from economies of scale and improve their access to open market.

iii. Climate change

Co-operatives under the principle of concern for the community should be in the forefront in mitigating climate change. However, cases have been noted, where many co-operatives are polluters to the environment especially agricultural co-operatives. Co-operatives are expected to play a leading role in protection of environment and adoption of green technologies.

iv. HIV/AIDS

The HIV/AIDS pandemic classified as a national disaster has far reaching potential to impact on the business of co-operatives. It is therefore imperative to proactively carry out continuous HIV/AIDS advocacy and awareness.

CHAPTER THREE: POLICY INTERVENTIONS

3.1 Introduction

This chapter provide policy interventions to address challenges affecting the growth and development of the co-operatives. The implementation of interventions prescribed will be undertaken by both levels of government in accordance with Article 186 and the Fourth Schedule of CoK, 2010. The specific functions have been assigned to each level of government through the Transition Authority Legal Notice No. 137 of 2013.

3.2 Review of the Legal and Regulatory Framework

Policy Objective: To accelerate the grow and development of co-operative sector through legal and institutional reforms

Interventions:

- a) Review the Co-operative Societies Act and Sacco Societies Act, to include the following areas:
 - (i) Re-align the legal and regulatory framework to the CoK, 2010;
 - (ii) Restructure the office of the commissioner for co-operative development and related offices in regulating the movement and enforcement of the law;
 - (iii) Develop a regulatory framework for non-financial co-operative societies;

3.4 Co-operative Finance and Investment

Policy objective: To enhance financial deepening and investments through co-operatives

Interventions:

- a) Develop mechanisms for co-operative enterprises to participate in government securities;
- b) Develop strategies to promote the growth of financial co-operatives;
- c) Develop mechanisms to integrate financial co-operatives in the provision of Islamic financial products;
- d) Establish the Co-operative Development Fund to provide affordable funding and facilitate, research and innovations in co-operatives. The fund to be financed through contributions from co-operatives. The government may provide initial seed capital;
- e) Provide incentives for housing co-operatives to participate in provision of decent and affordable houses;
- f) Promote the growth of financial co-operatives by channelling through them special purpose funds; and
- g) Promote new ventures, partnerships and financing opportunities in the co-operative sector in line with the co-operative principles

3.5 Co-operative Movement Structure

Policy objective: To establish an institutional framework for enhancement of co-operation, consultation and co-ordination of co-operative management

Interventions:

- a) Implement a new co-operative structure that constitutes primary, secondary, federations and the apex to enhance co-operation, consultation and co-ordination of co-operative activities;
- b) Restructure CAK to respond to the needs of the new structure;
- c) Promote co-operative federations in all value chains;
- d) Promote consumer, workers and industrial co-operatives;
- e) Restructure and promote transport co-operatives; and
- f) Promote and develop guidelines and procedures to be followed in the formation and operations of worker's co-operatives, consumer co-operatives, diaspora co-operatives, and Savings & Investments Co-operatives (SICOs).

3.6 Co-operative Governance and Enforcement

Policy objective: To promote governance in co-operatives

Interventions:

- a) Strengthen regulatory institutions to effectively promote and enforce ethics and governance in co-operative organisations;
- b) Reform in conjunction with the Judiciary the Co-operative Tribunal to enhance access and timely dispensation of justice to co-operators;
- c) Develop strategies to promote professionalism in co-operatives; and
- d) Establish alternative dispute resolution mechanisms in co-operatives.

3.7 Co-operative Education, Training and Research

Policy objective: To develop the capacity of co-operatives through training, education and research

Interventions:

- a) Promote co-operative research in all co-operative institutions, colleges and universities;
- b) Establish linkages with all institutions of higher learning offering co-operative training;
- c) Promote the development of a uniform co-operative curriculum for use in learning institutions in collaboration with Kenya Institute of Curriculum Development;

- d) Enhance collaboration between county governments and the national government for capacity building in the co-operative sector;
- e) Anchor co-operative learning centres within existing county learning institutions;
- f) Integrate the co-operatives data and statistics into the national data through the Kenya National Bureau of Statistics;
- g) Facilitate establishment of National Co-operative Information and Research Centre; and
- h) The national government to develop mechanism to fund research and development in the sector¹²

3.8 Information Communication Technology in Co-operatives

Policy objective: To promote adoption of ICT in co-operatives

Interventions:

- a) Facilitate the development of shared e-co-op platform to enhance service delivery to co-operative movement;
- b) Support and develop capacity of co-operatives to embrace modern technology and ICT;
- c) Develop strategies to promote investment in ICT; and

¹² To be financed through annual budgetary allocations

Appendix II: National Co-operative Policy Implementation Plan and Budget

POLICY OBJECTIVE	POLICY TARGET	STRATEGIES	INDICATORS	ACTORS	TIME FRAME in years			COST KSHS. (Million)
					1	2	3	
1.To accelerate the growth and development of co-operative sector through legal and institutional reforms.	Review Co-operative legislation s	Comprehensive review of the CSA in line with the provisions of the constitution	New Co-operative Societies Act enacted	SDC/KLRC / CoG/IGRTC/AG	15	5	0	20
		Comprehensive review of the SACCO Societies Act in line with the provisions of the constitution	Sacco Societies Act amended	SDC/KLRC / CoG/SASRA/AG	15	5	0	20
		Review of Co-operative Rules and SACCO Societies Regulations	Rules and Regulations reviewed	SDC/KLRC / AG	0	3	2	5

POLICY OBJECTIVE	POLICY TARGET	STRATEGIES	INDICATORS	ACTORS	TIME FRAME in years			COST KSHS. (Million)
		Formulation of county specific regulations in line with the national policy	Regulations/Rules in place	KLRC/ COUNTY GVTS/AG	0	2	0	2
	Develop a regulatory framework for non-financial co-operative societies	Formulate Regulations to regulate non-financial Co-operative Societies	Non-Financial Co-operative regulations developed	SDC/KLRC / COUNTY GVTS/AG/ NT	0	3	2	5
	Develop legal framework to enhance financial deepening through	Develop regulations to facilitate inter borrowing among co-operative societies	Regulations developed	SDC/KLRC / COUNTY GVTS/AG/ NT	0	3	2	5
		Develop	Regulations	SDC/CMA/	0	2	3	5